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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,441	10/29/2003	Perry N. Law	P67936US0	4583

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WASHINGTON, DC 20004

EXAMINER

NASSER, ROBERT L

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/695,441	LAW ET AL.	
	Examiner	Art Unit	
	Robert L. Nasser	3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,7-11,14,15,17 and 18 is/are rejected.
- 7) ☒ Claim(s) 3,6,12,13,16 and 19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/26/2003</u> | 6) <input type="checkbox"/> Other: ____ |

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Sacks 4202347. In figure 2, Sacks shows a cuff arrangement with a rigid tubular outer member 12, a thin flexible bladder 13 sealed thereto with the ends 14 of the bladder 13 overlapping the ends of the member 12 (see column 4, lines 32 and 33). The bladder has a tube 26 connected thereto for pressing the bladder in a relaxed state where it is inflated to pressure zero pressure on the finger and a second state where it is completely deflated. With respect to claims 7 and 8, the limitations as to the intended size of the finger to be used is an intended use limitation. The device of Sacks is capable of being used in the manner recited.

Claims 1, 5, 7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Shotwell Re 29,402. Shotwell shows a device including an outer rigid casing 18, and an inner annual bladder 58 sealed to the inner surface of the housing 18 and a tube 92 for supplying and evacuating fluid from the bladder, where the bladder has an expanded and compressed position. Again, the device is capable of meeting the use describe din claims 7 and 8.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sacks et al in view of Sano et al 551151. Sano et al shows an alternate cuff/bladder arrangement where the cuff has a thicker intermediate portion 22, to prevent bunching and pinching during use (see column 5, line 40 and 41). Hence, it would have been obvious to modify Sacks to use such a cuff/housing arrangement, to improve the overall performance of the device.

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sacks in view of Yamasawa et al 5218966. Sacks does not teach a material for flexible member 13. Yamasawa further teaches making the bladder from rubber. Hence, it would have been obvious to modify Sacks to use rubber, as it is merely the use of a known material for the purpose in the art. With respect to claims 9 and 11, judging by the nature of use of Sacks described in column 5, it is the examiner's position that it would necessarily have to meet the limitations claims 9 (expansion size) and 11 (thickness) in order to perform as described. Alternatively, the exact thickness of the device would have been an obvious matter of design choice for one skilled in the art.

Claims 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamasawa et al 5218966 in view of Sacks. Yamasawa shows a blood pressure measuring cuff including an outer rigid casing 10 and a bladder therein 8, with a plurality of light sources 15 attached to the inner surface of the bladder. The bladder is not formed between a flexible sheet and the rigid casing. Sacks teaches an alternate method of forming the bladder, where the bladder is formed by attaching a flexible

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membrane to the rigid casing. As such, it would have been obvious to modify Yamasawa et al to use such a bladder, as it is merely the substitution of one known bladder for another.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamasawa et al in view of Sacks as applied to claims 14 and 15 above, and further in view of Ukawa 5676140. Ukawa et al further teaches the use of a plurality of light sources (5a, 5b, 5c) aligned linearly along the longitudinal axis of the cuff. As such, it would have been obvious to modify the above combination to use such an arrangement of sources, as it is merely the substitution of one known source for another.

Claims 3, 6, 12, 13, 16, and 19 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 3 defines over the art in that none of the art shows the ends having a greater thickness than the middle, as claimed. Since applicant has described this as part of a scheme to have the cuff evacuate uniformly and prevent bunching of the cuff during measurements, it is the examiner's position that the feature is more than mere design choice.

Claims 6, 12, and 13 define over the art in that none of the art teaches the two stiffening ribs on the inner surface of the bladder, as claimed.

Claim 16 define over the art in that none of the art as the rib with the light source and detector therein, as claimed

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Claim 19 define over the art in that none of the art teaches the tinted bladder, to reduce interference, as claimed.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lichowsky and Gowen show alternate blood pressure monitors that have similar structure to the claimed invention.

Larson shows an inflatable cast with a rigid outer shell and an inflatable bladder attached thereto.

Kapp shows another device with a rigid outer portion and an inflatable bladder therein.

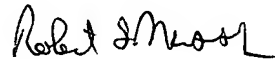
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert L. Nasser whose telephone number is (571) 272-4731. The examiner can normally be reached on Mon-Fri, variable hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert L. Nasser
Primary Examiner
Art Unit 3736



ROBERT L. NASSER
PRIMARY EXAMINER

RLN
March 5, 2005